

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

CRIMINAL NO.
04-10190-DPW

DARNELL UPSHAW

TRIAL ORDER, PRETRIAL CONFERENCE AND ORDER OF EXCLUDABLE DELAY

WOODLOCK, D.J.

After a pretrial conference held on December 21, 2005, the following Order is hereby set:

A Motion to suppress may be filed by JANUARY 23, 2006. Opposition due by FEBRUARY 27, 2006. A Hearing date shall be set after review of the filings.

A jury trial is set for MAY 22, 2006 AT 9:00 A.M., in Courtroom #1 on the 3RD floor before the Honorable Douglas P. Woodlock. The time period from DECEMBER 21, 2005 TO MAY 22, 2006 is deemed excludable in the interests of justice. Trial will continue day to day on a 9 to 1 schedule until deliberations. A pretrial conference will be held on MAY 15, 2006 AT 2:30 P.M.

In preparation for trial, it is hereby ORDERED that:

1. Unless otherwise ordered, but by no later than MAY 1, 2006, counsel for the government and defense shall:
 - A. Exchange proposed written stipulations of fact in a form suitable for presentation to the jury.
 - B. Electronically File (with 2 courtesy copies):
 - (1) All proposed questions each requests the Court to direct to the jury panel during voir dire examination.

- (2) A Trial Brief addressing anticipated disputes concerning evidentiary issues and other matters of law unless a different date has been specified.
 - (3) Proposed Jury Instructions with citations to supporting authority.
- 2. No later than the first day of trial and before impaneling the jury, the government shall submit to the Court **in triplicate**, with additional copies for defense counsel, a list of its witnesses, including their residences or institutional address, and the name of the case agent, if any, who is to sit at government counsel table. Defendant(s) shall submit a list of prospective alibi witnesses and any other witnesses the defendant(s) wish brought to the attention of the jury during voir dire, identified by city or town of residence or by the institutional address.
- 3. All parties shall, prior to the commencement of trial, mark for identification purposes all proposed exhibits and materials intended to be used as offered during trial. On the first day of trial each party shall file copies and shall file, **in triplicate**, a listing of such proposed exhibits. Such exhibits should be pre-marked in a numerical sequence and labeled either "Government Exhibit" or "Defendant Exhibit". (see attached form for exhibit list)

Counsel are advised of the Court's "5 minute-rule", which requires that during jury deliberations, counsel may leave the

courtroom, but must appear in court within 5 minutes of a call from the deputy clerk, in order to respond to any jury question or for the return of a verdict. Defense counsel are encouraged, but not required, to bring cellular telephones with them during jury deliberations, should they desire to leave the courtroom to use the library or the cafeteria, or go to some other location within a 5 minute radius.

BY THE COURT

/s/ Michelle Rynne
Deputy Clerk

January 13, 2006

USE THIS FORMAT FOR PREPARATION OF EXHIBIT LIST:

Exhibit Offered By:	Exhibit Number/ Letter	Marked [yes/no]	Admitted [yes/no]	Descrip- tion of Exhibit	Offered through Witness:	Date Admitted

SAMPLE EXHIBIT LIST

(Third, Fourth, Sixth and Seventh Columns
and bracketed material to be completed at trial)

Exhibit Offered By:	Exhibit Number/ Letter	Marked [yes/no]	Admitted [yes/no]	Descrip- tion of Exhibit	Offered through Witness:	Date Admitted
Plaintiff	1	yes	yes	MGH Hospital Record dated 8/5/98	John Jones	10/10/98
Defendant	2	yes	yes	Boston Police Report dated 8/5/98	Officer John Smith	10/11/98
Plaintiff	3A	yes	yes	3x5 photo of Plaintiff showing injuries	Plaintiff	10/11/98
Plaintiff	3B	yes	yes	4x6 photo scene of accident	Plaintiff	10/11/98